

SENATE BILL No. 555

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-9-23.

Synopsis: Sewer bills on rental property. Provides that a lien for municipal sewer fees does not attach to real property occupied by a lessee unless the municipal utility gives the owner of the real property certain notice. Provides that if a municipal utility enters into an agreement with a lessee for: (1) a deferral or reduction in sewer fees; or (2) another arrangement for the payment of sewer fees; a lien for the amount of fees due after the agreement is made does not attach to the real property unless the owner of the real property consents to the agreement in writing.

Effective: July 1, 2005.

Young R Michael

January 20, 2005, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 555

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-9-23-32 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 32. (a) Fees assessed
3 against real property under this chapter or under any statute repealed
4 by IC 19-2-5-30 constitute a lien against the property assessed. The lien
5 is superior to all other liens except tax liens. Except as provided in
6 ~~subsections subsection (b) and (c); and section 32.5 of this chapter,~~
7 the lien attaches when notice of the lien is filed in the county recorder's
8 office under section 33 of this chapter.
9 (b) A fee is not enforceable as a lien against a subsequent owner of
10 property unless the lien for the fee was recorded with the county
11 recorder before the conveyance to the subsequent owner. If the property
12 is conveyed before the lien can be filed, the municipality shall notify
13 the person who owned the property at the time the fee became payable.
14 The notice must inform the person that payment, including penalty fees
15 for delinquencies, is due not less than fifteen (15) days after the date of
16 the notice. If payment is not received within one hundred eighty (180)
17 days after the date of the notice, the amount due may be expensed as a

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1 bad debt loss.

2 (c) A lien attaches against real property occupied by someone other
3 than the owner only if the utility notified the owner within twenty (20)
4 days after the time the utility fees became sixty (60) days delinquent.
5 However, the utility is required to give notice to the owner only if the
6 owner has given the general office of the utility written notice of the
7 address to which his notice is to be sent.

8 (d) (c) The municipality shall release:

9 (1) liens filed with the county recorder after the recorded date of
10 conveyance of the property; and

11 (2) delinquent fees incurred by the seller;
12 upon receipt of a verified demand in writing from the purchaser. The
13 demand must state that the delinquent fees were not incurred by the
14 purchaser as a user, lessee, or previous owner, and that the purchaser
15 has not been paid by the seller for the delinquent fees.

16 SECTION 2. IC 36-9-23-32.5 IS ADDED TO THE INDIANA
17 CODE AS A NEW SECTION TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 2005]: **Sec. 32.5. (a) This section applies to**
19 **fees assessed under this chapter against real property occupied by**
20 **a lessee.**

21 (b) As used in this section, "fees" includes any fees, charges, or
22 penalties assessed under this chapter.

23 (c) As used in this section, "lessee" refers to a person who
24 occupies real property other than the owner of the real property.

25 (d) A lien attaches against real property under this chapter only
26 if the utility notifies the owner of the real property of a delinquency
27 not later than twenty (20) days after the time the utility fees
28 become thirty (30) days delinquent.

29 (e) If the utility enters into an agreement with a lessee for:

30 (1) a deferral or reduction in fees assessed under this chapter;
31 or

32 (2) another arrangement for the payment of fees under this
33 chapter;

34 a lien for the amount of fees due after the agreement is made does
35 not attach to the real property unless the owner of the real
36 property consents to the agreement in writing.

37 (f) An owner of real property is not otherwise liable for payment
38 of fees if a lien does not attach to the real property for those fees
39 under this section.

40 (g) A notice given by a utility under this section is sufficient if it
41 is sent to the owner at the owner's address indicated in the county
42 auditor's records.

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SECTION 3. IC 36-9-23-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 33. (a) An officer described in subsection (b) may defer enforcing the collection of unpaid fees and penalties assessed under this chapter until the unpaid fees and penalties have been due and unpaid for at least ninety (90) days.

(b) Except as provided in subsection (1), the officer charged with the collection of fees and penalties assessed under this chapter shall enforce their payment. As often as the officer determines is necessary in a calendar year, the officer shall prepare either of the following:

(1) A list of the delinquent fees and penalties that are enforceable under this section, which must include the following:

(A) The name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent.

(B) A description of the premises, as shown by the records of the county auditor.

(C) The amount of the delinquent fees, together with the penalty.

(2) An individual instrument for each lot or parcel of real property on which the fees are delinquent.

(c) The officer shall record a copy of each list or each individual instrument with the county recorder who shall charge a fee for recording the list or each individual instrument in accordance with the fee schedule established in IC 36-2-7-10. The officer shall then mail to each property owner on the list or on an individual instrument a notice stating that a lien against the owner's property has been recorded. Except for a county having a consolidated city, a service charge of five dollars (\$5), which is in addition to the recording fee charged under this subsection and under subsection (f), shall be added to each delinquent fee that is recorded.

(d) This subsection applies only to a county containing a consolidated city. Using the lists and instruments prepared under subsection (b) and recorded under subsection (c), the officer shall certify to the county auditor a list of the liens that remain unpaid according to a schedule agreed upon by the county treasurer and the officer for collection with the next cycle's property tax installment. The county and its officers and employees are not liable for any material error in the information on the list.

(e) Using the lists and instruments prepared under subsection (b) and recorded under subsection (c), the officer shall, not later than ten (10) days after the list or each individual instrument is recorded under subsection (c), certify to the county auditor a list of the liens that

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1 remain unpaid for collection in the next May. The county and its
 2 officers and employees are not liable for any material error in the
 3 information on this list.

4 (f) The officer shall release any recorded lien when the delinquent
 5 fees, penalties, service charges, and recording fees have been fully
 6 paid. The county recorder shall charge a fee for releasing the lien in
 7 accordance with IC 36-2-7-10.

8 (g) On receipt of the list under subsection (e), the county auditor of
 9 each county shall add a fifteen dollar (\$15) certification fee for each lot
 10 or parcel of real property on which fees are delinquent, which fee is in
 11 addition to all other fees and charges. The county auditor shall
 12 immediately enter on the tax duplicate for the municipality the
 13 delinquent fees, penalties, service charges, recording fees, and
 14 certification fees, which are due not later than the due date of the next
 15 May installment of property taxes. In a county having a consolidated
 16 city, the delinquent fees, penalties, service charges, and recording fees
 17 are due not later than the due date of the next installment of property
 18 taxes. The county treasurer shall then include any unpaid charges for
 19 the delinquent fee, penalty, service charge, recording fee, and
 20 certification fee to the owner or owners of each lot or parcel of
 21 property, at the time the next cycle's property tax installment is billed.

22 (h) After certification of liens under subsection (e), the officer may
 23 not collect or accept delinquent fees, penalties, service charges,
 24 recording fees, or certification fees from property owners whose
 25 property has been certified to the county auditor. This subsection does
 26 not apply to a county containing a consolidated city.

27 (i) If a delinquent fee, penalty, service charge, recording fee, and
 28 certification fee are not paid, they shall be collected by the county
 29 treasurer in the same way that delinquent property taxes are collected.

30 (j) At the time of each semiannual tax settlement, the county
 31 treasurer shall certify to the county auditor all fees, charges, and
 32 penalties that have been collected. The county auditor shall deduct the
 33 service charges and certification fees collected by the county treasurer
 34 and pay over to the officer the remaining fees and penalties due the
 35 municipality. The county treasurer shall retain the service charges and
 36 certification fees that have been collected, and shall deposit them in the
 37 county general fund.

38 (k) Fees, penalties, and service charges that were not recorded
 39 before a recorded conveyance shall be removed from the tax roll for a
 40 purchaser who, in the manner prescribed by ~~section 32(d)~~ **section 32(c)**
 41 of this chapter, files a verified demand with the county auditor.

42 (l) A board may write off a fee or penalty under subsection (a) that

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- 1 is for less than forty dollars (\$40).
2 (m) This section is subject to the rights of the owner of the real
3 property under section 32.5 of this chapter.

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